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AUG 23 2004

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FACSIMILE TRANSMISSION COVER SHEET**OFFICIAL**

DATE: August 23, 2004

TO: Examiner Mark Rosenbaum
Group Art Unit 3725
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RE: U.S. Patent Application No. 10/083,657
For: METHODS OF MAKING A NIOBIUM METAL OXIDE
Our Ref: 01017CIP (3600-346-01)

FROM: Luke A. Kilyk, Esq. *LAK*

FAC. TEL. NO.: 1-703-872-9306

NUMBER OF PAGES (INCLUDING THIS COVER SHEET): 3

Items Attached: Response to Restriction Requirement -- 2 pages

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 1-703-872-9306 on August 23, 2004.

Donald S. Prater
Name (Print)*Donald S. Prater*
Signature

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OFFICIAL**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Kitchell et al.)	Examiner: Mark Rosenbaum
)	
Application Number: 10/083,657)	Group Art Unit: 3725
)	
Filed: February 25, 2002)	Confirmation No.: 9489
)	
Docket No.: 01017CIP (3600-346-01))	

For: METHODS OF MAKING A NIOBIUM METAL OXIDE

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

August 23, 2004

Sir:

This Response to Restriction Requirement is in response to the Office Action dated July 23, 2004, for which the Examiner has set a one-month period for response, thus making the response due on or before August 23, 2004.

In the Office Action, the Examiner sets forth a three-way restriction requirement wherein Group I, claims 1-14, 23, 25, and 26 are drawn to a process for milling material; Group II, claims 15-22 and 24 are drawn to a process for milling material; and Group III, claims 27-29 are drawn to a material.

To be responsive, the applicants elect, with traverse, Group II, claims 15-22 and 24 for examination.

The applicants believe that the remaining claims, namely, claims 1-14, 23, 25-29, should be examined at this time since there appears to be no serious burden on the part of the Examiner to

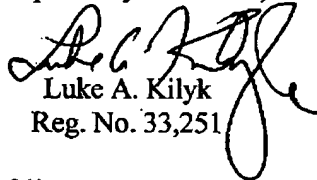
Response To Restriction Requirement
U.S. Patent Application No. 10/083,657

search the entire scope of the claims. This is especially true in view of the very similar class/subclasses for each group. At the very least, the Examiner should search the method claims together, Groups I and II, which both relate to milling essentially the same material.

Moreover, under M.P.E.P §803, if there is no serious burden in the examination of all of the claims even if the claims directed to separate inventions, the Examiner must examine all claims at this time. It would appear that §803 applies to the current situation and therefore the restriction requirement should be withdrawn and all claims should be examined at this time.

If there are any other fees due in connection with the filing of this response, please charge the fees to deposit Account No. 03-0060. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,


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